



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/935,629	09/23/97	BATES	E

GARY HOFFMAN
285 HAWTHORNE ROAD
PITTSBURGH PA 15209

IM41/0722

EXAMINER
ALEXANDER, L

ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 07/22/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/935,629

Applicant(s)
Bates et al.

Examiner
Lyle A. Alexander

Group Art Unit
1743



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-23 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(1). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

2. ***Claim Rejections - 35 USC § 112***

3. Claims 2-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These dependent claims are directed to method of intended use of the apparatus and do not appear to further limit the structural feature of claim 1.

4. ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Senior(USP 5,504,013), Krafczyk et al.(USP 3,884,641) or Schwab et al.(USP 2,785,057).

The cited prior art teaches a device with a cartridge/cassette that contains a test strip, a window for viewing the test results and a well. The balance of the claim language is directed to

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methods of intended use which are of no patentable moment with respect to the instant apparatus claims.

7. Claim 23 is rejected under 35 U.S.C. 102(a,b respectively) as being clearly anticipated by Hovatter(USP 5,683,659) or Seymour(USP 5,380,492) respectively.

Both of these references teach methods of depositing test samples into a sample well and attaching a cap to seal the top of the sample well.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is (703) 308-3893.

LAA

July 17, 1998



LYLE A. ALEXANDER
PRIMARY EXAMINER